

EVALUATOR MANUAL TRANSMITTAL SHEET

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| <u>Distribution:</u> | <u>Transmittal No.</u> 04APX-14 |
| <u> X </u> All Child Care Evaluator Manual Holders <u> </u> All Residential Care Evaluator Manual Holders <u> </u> All Evaluator Manual Holders | <u>Date Issued</u> January 2005 |

Subject:

2004 Chaptered Legislation
 Appendix A – Child Care Centers and Family Child Care Homes

Reason For Change:

This transmits summaries of legislation chaptered in 2004 affecting Child Care Centers and Family Child Care Homes. The summaries are divided into two sections as follows:

1. Immediate Action Required – Interim instructions are provided.
2. Information Only – No action required by CCLD.

An index is attached to assist staff in locating specific bills. Statutes referenced in this document became operative on January 1, 2005, unless specified otherwise.

Filing Instructions:

REMOVE –

INSERT – the attached pages into Appendix A. Do not remove similar documents from the previous years.

Approved:

Original signed by Melissa Miller

1/07/05

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SUMMARY AND IMPLEMENTATION PLANS 2004 CHAPTERED LEGISLATION

CHILD CARE CENTERS AND FAMILY CHILD CARE HOMES

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Unless otherwise noted, all new legislation becomes effective on January 1, 2005. When conducting visits, LPAs should ensure that providers are aware of any new requirements.

ACTION REQUIRED

AB 72, (Bates), Chapter 358, Statutes of 2004

Affects: Child Care Centers (CCC) and Family Child Care Homes (FCCH)

Subject: Resource and Referral (R&R) Program Notification and Posting Requirements

Summary: AB 72 amends the Education Code to specify under what conditions licensed child care facilities are removed from the R&R referral lists and notification requirements to the licensees and alternative payment programs of such removals from the lists. AB 72 also adds to and/or amends Health and Safety Code (HSC), Sections 1596.773, 1596.853 and 1596.8555 to include definitions for probation and revocation of a license; specify timeframes for Community Care Licensing Division (CCLD) to notify R&R agencies of the following: when a license is issued or denied, an allegation of physical or sexual abuse is substantiated, when a temporary suspension order (TSO) is issued, a license is revoked, or a probationary license is issued, and the final resolution of any of the above actions; and require all child care licensees to post their facility license in a prominent, publicly accessible location in the facility. FCCH licensees are required to post the license only when clients are in care.

Implementation: CCLD and contract counties are required to do the following:

- Notify the local R&R within two business days of a TSO, revocation of a license, or the placement on probation of a license. For notification of a TSO, follow established procedures in EM Section 1-1190, Facility Closures, Notification and Client Relocation. Upon receipt of a Decision and Order (D&O) or Stipulation, Waiver, and Order from Legal indicating a license has been revoked or placed on probation, notify the appropriate R&R agency within 2 days.
- Notify the local R&R within one business day of the substantiation of any complaint allegations involving sexual and physical abuse. A finding that the complaint is substantiated means that the allegation is valid because the preponderance of evidence standard has been met and the Local Unit Manager (LUM) or County Licensing Supervisor has signed off on the complaint.
- Notify the R&R of the final disposition of any of the above occurrences.
- Notify the local R&R when a license is issued or denied. A copy of the denial letter may be used for this purpose.
- Ensure that all licensed child care facilities post their license in a prominent, publicly accessible location in the facility. A FCCH shall comply with the posting requirement only during the hours when clients are present. Until regulations are developed, cite HSC Section 1596.8555 for failure to post the facility license.

Upon receipt of a D&O from Legal, the Regional Offices (RO) and county licensing offices (CLO) must ensure the Licensing Information System (LIS) facility profile, or the county electronic tracking system, is updated. The tracking systems must reflect the

current facility status. If a facility is placed on probation, ensure the license effective and expiration dates reflect the dates that probation begins and ends. The comments section should indicate: "Probationary License is subject to terms and conditions outlined in Decision and Order (or Stipulation, Waiver, and Order) dated ____." A probationary license must be issued to the licensee.

For state licensed facilities it is essential that the LIS Profile is continuously updated to ensure the "Facility Listing" on the CCLD website is up to date. CLOs must also ensure the county electronic tracking system is continuously updated to ensure accuracy of information and notification to the R&R.

AB 1240 (MULLIN), CHAPTER 653, STATUTES OF 2004

AB 1240 is explained in two parts:

Part I:

Affects: All state and county licensed facilities

Subject: Civil Penalty (CP) Increase for Background Check Violations

Summary: Amendments to Health and Safety Code Sections 1522, 1568.09, 1569.17, and 1596.871 increase an existing CP for allowing an individual, who does not have a criminal record clearance or exemption, to work or reside in a licensed facility. The existing, immediate \$100 per individual CP has been increased to an immediate \$100 per day CP, for a maximum of five days for the first violation and a maximum of 30 days for subsequent violations.

Implementation: These statute changes are effective immediately and licensing staff shall implement as follows:

- Prior to each licensing visit, review the facility file for any citations for allowing an individual, who does not have a criminal record clearance or exemption, to work or reside in the facility and, as is current practice, query the LIS or equivalent county system, for a list of all persons currently associated to the facility.
- At the licensing visit, if there is a person(s) (who is subject to a background check) working or residing in the facility who does not have a clearance or a criminal record exemption:
 1. Determine how long the individual has been working or residing at the facility.
 2. Cite the deficiency.
 3. Assess immediate CP for the number of days that you can substantiate the individual worked or resided in the facility, up to a maximum of 5 days.

4. If the licensee has been cited for this type of violation within the last 12 months, assess the immediate CP for the number of days that you can substantiate the individual worked or resided in the facility, up to a maximum of 30 days.

Regulations will be amended to reflect this change.

NOTE: Nothing above changes the current requirement that the individual must be removed from the facility and cannot return until he/she receives a clearance or a criminal record exemption.

Part II:

Affects: State and county licensed Foster Family Homes (FFH) and Family Child Care Homes (FCCH)

Subject: Background Clearance/Exemption Transfers Between County and State Licensing Agencies

Summary: This legislation amends Sections 1522 (h) and 1596.871(h) of the Health and Safety Code to permit the transfer of criminal record clearance and exemption information between contracting county licensing offices and between contracting counties and state licensing offices, as long as the clearance is for the same facility type. As counties only contract to license FFHs and FCCHs, this new transfer authority will only impact background checks conducted for those licensing categories. Under this legislation, the Department of Justice (DOJ) is authorized to charge a fee for transferring the authority to receive subsequent criminal history information to the county or state licensing office that has received the transfer.

Implementation: Instructions for the exchange of criminal history information between licensing programs and the change of authority for the receipt of subsequent criminal history information are currently being developed with DOJ. An Interagency Agreement with DOJ has been drafted and is expected to be implemented in January 2005. The Evaluator Manual procedures for maintenance of criminal history information will be modified to reflect the new transfer procedures. It is expected that the transfer of criminal history information will be fully implemented by February 1, 2005.

AB 1697, (Pavley), Chapter 225, Statutes of 2003

Affects: CCCs

Subject: Car Seat Law

Summary: This law becomes effective January 1, 2005. Section 27360 of the Vehicle Code is amended to specify the conditions for transporting a child using an appropriate child passenger restraint system in a motor vehicle. Provisions are also specified for the placement of a child in either the front seat or rear seat of a motor vehicle.

The amendments apply to parents, legal guardians and any driver transporting a child in a motor vehicle, including child care providers, unless the parent or legal guardian is also present in the car.

Under current law children transported in a motor vehicle are required to be in a child passenger restraint system unless the child is:

- Six years of age or older, or
- Weighs 60 pounds or more.

As of January 1, 2005, a child under the age of six years old who weighs less than 60 pounds must ride in the rear seat of a motor vehicle in an appropriate child passenger restraint system, except under the following circumstances:

- There is no rear seat.
- The rear seats are side-facing jump seats.
- The rear seats are rear facing seats.
- A child passenger restraint system cannot be properly installed in the rear seat.
- All rear seats are already occupied by children under the age of 12 years old.
- Medical reasons (that are not specified in the law) necessitate that the child not ride in the rear seat. The court may require satisfactory proof of the child's medical condition.

A child or ward may not ride in the front seat of a motor vehicle with an active passenger air bag if the child or ward is one of the following:

- Under one year of age, or
- Weighs less than 20 pounds, or
- Riding in a rear facing child passenger restraint system.

Implementation: CCCs continue to be required to post signs informing parents of the current car seat law. If the child care center licensee has information referencing the old requirements, inform the licensee that the PUB 269 (01/05), Child Car Seat Law

poster has been revised to include the new requirements and is available effective January 1, 2005, in English and Spanish at the CCLD website: www.cclld.ca.gov. Regulations will be developed to reflect the new requirements stated in Vehicle Code Section 27630.

If no sign is posted, cite using Section 101225(f) and as a plan of correction require the licensee to post the PUB 269 (1/05).

A small supply of the revised car seat law poster was sent to each child care RO on November 18, 2004.

SB 1104 (Committee on Budget and Fiscal Review), CHAPTER 229, STATUTES OF 2004

Affects: All Elderly Residential, Community Care (except for Foster Family Homes), and Child Day Care Facilities

Subject: Licensing Fees

Summary: This legislation amends among other statutes, Health and Safety Code Sections 1523.1, 1568.05, 1569.185, and 1596.803 to require the Department to increase existing fees and charge new fees for the purpose of financing licensing activities. This emergency legislation became effective when the bill was chaptered on August 16, 2004.

Existing application and annual fees were increased. (See attached schedule.) Fees for a change of location were increased to 50% of the application fee.

The following new fees were added:

- Corporate Status Change Fee – 50% of the application fee shall be charged when a corporate licensee changes who has the authority to select a majority of the board of directors.
- Capacity Change Fee - \$25 shall be charged when a licensee seeks to either increase or decrease the facility's licensed capacity.
- Orientation Fee - \$25 must be charged to each person attending a department-sponsored family child day care orientation and \$50 per person for all other licensing categories (except Foster Family Homes which continue to have no fee.)
- Probation Monitoring Fee – An amount equal to the annual fee shall be charged for each year a license has been placed on probation as a result of a stipulation and decision and order.

- Late Fee – 50% of the annual fee shall be charge to any licensee who fails to pay the annual licensing fee on or before the due date as indicated by postmark on the payment.
- Payment Processing (Administrative) Fees - A fee charged to cover any cost incurred by the Department shall be charged for processing payments including, but not limited to, bounced check charges, charges for credit and debit transactions, and postage due charges.
- Plan of Correction Fees - A fee of two hundred dollars (\$200) shall be charged when any licensee does not implement a plan of correction on or before the date specified in the plan.

Implementation:

Existing Fee Increase

Although the bill is self-enforcing, regulations will be amended to incorporate the new fees. In the interim, licensing staff should follow the applicable section of the Health and Safety Code to assess the **new** amounts for **existing fees** (annual, application, change in licensing location, change in corporate status and change of capacity) charged by the Department. See attached chart showing the new annual and application fees for Child Care facilities.

Until regulations have been amended to incorporate the new fee structure, licensing staff should cite the applicable Health and Safety Code if a licensee is assessed an existing fee and fails to submit payment as required.

New Orientation Fee

Licensing staff should refer to the October 1, 2004, memo from Interim Deputy Director, Martha Mills and the October 26, and 27, 2004 memos from Child Care Program Administrator, Melissa Miller, for orientation fee procedures.

Additional New Fees

The Department is determining how it will assess and collect payment processing (administrative) fees, late fees, plan of correction fees, and probation monitoring fees.

**Child Day Care Facilities
Application and Annual Fee Schedule
Effective August 16, 2004**

APPLICATION FEES

Family Child Care Homes

| | <u>Fee</u> |
|--------------------------------------|-------------------|
| Small (capacity to 8 children) | \$60 |
| Large (capacity of 9 to 14 children) | \$115 |

Child Care Centers

| <u>Capacity</u> | <u>Fee</u> |
|------------------------|-------------------|
| 1 – 30 | \$400 |
| 31 – 60 | \$800 |
| 61 – 75 | \$1,000 |
| 76 – 90 | \$1,200 |
| 91 – 120 | \$1,600 |
| 121+ | \$2,000 |

ANNUAL FEES

Family Child Care Homes

| | <u>Fee</u> |
|--------------------------------------|-------------------|
| Small (capacity to 8 children) | \$60 |
| Large (capacity of 9 to 14 children) | \$115 |

Child Care Centers

| <u>Capacity</u> | <u>Fee</u> |
|------------------------|-------------------|
| 1 – 30 | \$200 |
| 31 – 60 | \$400 |
| 61 – 75 | \$500 |
| 76 – 90 | \$600 |
| 91 – 120 | \$800 |
| 121+ | \$1,000 |

SB 1313 (Kuehl), Chapter 842, Statutes of 2004

Affects: Child Care Facilities, Children's Residential Facilities

Subject: Child Abuse Reporting

Summary: This legislation amends various sections of the Penal Code recommended in a March 2004 report by the Child Abuse and Neglect Reporting Act (CANRA) Task Force. The CANRA Task Force included 16 various State and County department members and stakeholders to correct defects in the Child Abuse Central index (CACI) reporting process by improving and streamlining procedures.

Following are some of the specific changes:

Requires all community care licensing investigators (Peace Officers) to have a CACI check as a condition of employment.

Encourages community care children's facilities that use volunteers to train them in abuse identification and reporting requirements.

Requires community care licensees to inform their employees who are mandated reporters of their confidentiality rights under Penal Code Section 11167

Requires community care licensees to provide their employees with copies of Penal Code Sections 11165.7, 11166 and 11167.

Implementation: The LIC 9108, Statement Acknowledging Requirement to Report Suspected Child Abuse is being revised to reflect the provisions required in this legislation, and will be available on the Internet January 2005. After January 1, 2005, Licensing Program Analysts should verify at the licensing visit that the correct form is being used for the facility's staff as they are hired. If the wrong form is used, inform the licensee that the revised form is available on the CCLD website: www.cclld.ca.gov.

INFORMATION ONLY – NO ACTION REQUIRED

AB 379, (Mullen), Chapter 897, Statutes of 2004

Affects: FCCHs

Subject: FCCH Networks

Summary: This bill amends Chapter 2, of Part 6 of the Education Code, relating to child development. This bill requires the Superintendent of Public Instruction to contract with entities organized under law to operate FCCH education networks. The FCCH education network program is required to provide specified services, including age and developmentally appropriate activities for children, parenting education, and parent involvement. The goal is to improve and ensure school readiness of children from state-subsidized families who receive child care and development services in FCCHs. It also changes the maximum age for eligibility in the program to 13 and modifies the definition of “parent” under the Child Care and Development Services Act.

This codifies current practice of the State Department of Education (SDE) of contracting with networks of FCCHs to provide child care and development services to low income children and to ensure that the SDE desired results system of outcomes measures apply to the network.

This amendment joins up with SB 1657 (Scott) and AB 2525 (Assembly Education Committee.)

SB1657 amends and increases the uniformity of information being reported and that is available to SDE and child care providers about fraud prevention and prosecution. By reducing fraud, it increases the resources available to eligible families. This bill is related to SB 543 (Scott) in 2002 which required a study of fraud in subsidized child care programs. The 2004-05 budget includes several provisions related to child care fraud.

AB2525 is the SDE annual “clean-up” bill to correct technical errors in Statute, update cross-references, and to delete obsolete references. This bill makes a number of non-controversial, conforming, and technical changes to various education statutes and Budget items; which means that the SDE Code is amended to provide a comprehensive, coordinated, and cost-effective system of child care and development services for children, to age 13, and their parents, including a full range of supervision, health, and support services through full- and part-time programs.

AB 1393, (Kehoe), Chapter 366, Statutes of 2004

Affects: Child Care: Before and After School Programs

Subject: Extends Before and After School Programs

Summary: This bill extends the operation of the 6 to 6 before and after school programs from January 1, 2005 to January 1, 2009, without requiring them to be licensed.

These before and after school programs partner with schools and communities to provide academic and literacy support and safe, constructive alternatives for youth in kindergarten and grades 1 to 9.

AB 2407, (Bermudez), Chapter 946, Statutes of 2004

Subject: Maintaining kindergarten classes at different school sites for different lengths of time

Summary: This bill authorizes a school district that is implementing an early K-3 primary program, to maintain kindergarten classes at different school sites within the district, for different lengths of time during the school day, without seeking a waiver from the State Board of Education (SBE). This bill creates an exception to the "equity of time" requirement for school districts establishing Early Primary Programs.

SB 855, (Machado), Chapter 664, Statutes of 2004

Affects: Community Care Facilities

Subject: Crisis Nurseries Providing Child Care Services in Contra Costa, Nevada, Placer, Sacramento, San Joaquin, Stanislaus, and Yolo Counties

Summary: SB 855 adds Section 1516 to the HSC to define a crisis nursery as a facility licensed by the Department to provide short-term 24-hour nonmedical residential care and supervision for children less than six years of age. (These facilities were formerly licensed as group homes.)

Section 1596.792 (n) is also added to the HSC to allow a crisis nursery to provide services for less than 24 hours for children under the age of six years, at the same site as the crisis nursery without requiring the facility to obtain a child day care license. A child who is receiving these services shall be counted in the capacity of the crisis nursery and shall meet the criteria below.

Children are either voluntarily placed for temporary residential or day care by the parent or legal guardian due to a family crisis or a stressful situation. Children may be placed for no more than 30 calendar days in a six-month period unless the Department issues an exception. They may also be placed by a county child welfare worker for no more than 14 days.

The Department may issue a license for a crisis nursery if the facility meets one of the following conditions:

- The facility is operating, or has an application on file with the Department to operate as of September 1, 2004, as a group home for children less than six years old in any of the following counties: Contra Costa, Nevada, Placer, Sacramento, San Joaquin, Stanislaus and Yolo.
- The facility, pursuant to standards developed by the Department by regulation, meets an urgent, significant, and unmet need for temporary respite care for children less than six years old.
- The facility offers temporary emergency shelter and services only to children less than six years old who are voluntarily placed by a parent or guardian, and the facility does not accept county placements.

The provisions of SB 855 will remain in effect only until January 1, 2008, and as of that date are repealed, unless a later enacted statute deletes or extends that date.